



Expungement of an Adult Record

A GUIDE TO EXPUNGEMENT OF ADULT RECORDS IN THE FAMILY COURT

<https://courts.delaware.gov/family>

FAMILY COURT OF THE STATE OF DELAWARE

Expungements are filed with the Court to remove cases from a criminal history.

A “case” includes anything from a particular incident.

If there were multiple charges within one case, an expungement could remove them all.

If you have several separate cases, you would need to file to expunge each of them independently.

Related Forms:

281, 240

Related Costs:

A filing fee **IS** required with each expungement filed with the Court.

What is an Expungement?

Expungement is the way in which an adult’s criminal record and all records of arrest related to that crime, including fingerprints and photographs, are destroyed or shielded from general view.

In Delaware, Section 1025 and Section 1026 of Title 10 of the Delaware Code governs the process of petitioning for expungement of an adult record.

I have been charged with a crime. Can I have my charge expunged?

Mandatory Expungement

If you were charged with the commission of a crime that is designated as a misdemeanor or violation of titles 4, 7, 11, 16 or 23 of the Delaware Code and the case was terminated in your favor and you have not previously been convicted of another criminal offense, you may contact the State Bureau of Identification to request that your record be expunged. If you meet the requirements described above, it is mandatory that your expungement be granted.

- Mandatory Expungement is not applicable to the records of a case in which the defendant was charged with any of the following:
 1. Any misdemeanor designated as a sex offense pursuant to 11 Del.C. 761
 2. Any misdemeanor set forth in subpart A or subchapter II of Chapter 5 of the Delaware Code
 3. Trespassing with Intent to Peer or Peep, pursuant to 11 Del.C. 820
 4. Endangering the Welfare of a Child, pursuant to 11 Del.C. 1102
 5. Endangering the Welfare of an Incompetent Person, pursuant to 11 Del.C. 1105
 6. Any misdemeanor set forth in subparts A, B, C or F of subchapter IV of Chapter 5 of 11 Del.C.
 7. Any misdemeanor or violation set forth in Chapter 85 of 11 Del.C.
 8. Patient Abuse, pursuant to 16 Del.C. 1136
 9. Operation of a Vessel or Boat While Under the Influence, pursuant to 23 Del.C. 2302

Discretionary Expungement

If your charge does not fall into one of the categories for mandatory expungement as described above, you may file a Petition for Expungement of Adult Record asking the Family Court to expunge your record if:

You were charged as an adult under the jurisdiction of the Family Court; AND

1-You were acquitted OR

2-A Nolle Prosequi (the Attorney General decided not to pursue the charge) was taken; OR

3-You were placed on probation before judgment, fulfilled the terms and conditions of probation, and the Court entered an order discharging you from probation OR

4- The charge was dismissed; AND

The Court finds that the continued giving out of the record of arrest causes you a manifest injustice.

Q: What is manifest injustice?

- **A:** Manifest injustice essentially means hardship. Manifest Injustice on the expungement petition refers to having a record, not the circumstances surrounding your arrest

Q: What do I have to explain to show manifest in justice?

- **A:** You must explain why having a recording is causing you difficulties in your life or holding you back in some way, including but not limited to:
 - ◆ Problems with finding a job
 - ◆ Gaining admission to college or other vo-tech programs

*** NOTE: When completing your petition, please do not use the space provided to discuss the facts of your arrest and/or the circumstances concerning the charges.***

I have previously been convicted of a criminal offense. Will this affect my Petition for Expungement?

If you have previously been convicted of a criminal offense (different from the offense that you are seeking to have expunged), that shall be considered by the Court as prima facie evidence that the continued giving out of your record does not cause you a manifest injustice. This means that the Court will deny your Petition for Expungement unless you can show significant evidence why it should be granted.

Will the Court hold a hearing regarding my Petition for Expungement?

Only if the Court believes it is necessary to hold a hearing. If the Court finds that the continued giving out of the record of arrest causes you a manifest injustice, it will enter an order requiring the expungement of the police and court records relating to the charge. Otherwise, it will deny the Petition. This is *usually* done without a hearing.

If I file a Petition for Expungement of an Adult Record, will the Court expunge my charges automatically?

Not necessarily. The attorney general's office may oppose your request and/or the Court may find that there are other reasons to not grant the expungement. It is in the Court's discretion to grant an expungement.

What will happen if my charge(s) is expunged?

If the Court enters an Order granting your Petition for Expungement of an Adult Record and orders various agencies to comply with its Expungement Order, then all evidence of your charge(s) and arrest record relating to that charge(s), including fingerprints and photographs, will be destroyed or shielded from view. This will occur within 60 days of the Court's order.

When a potential employer does a criminal background check, there will be no evidence on record with the Court or other State agencies relating to the expunged adjudication.

Where can I get a certified copy of my charges?

To file a Petition for Adult Expungement, you must attach a copy of your charges and the dispositions on those charges. You must obtain a certified copy of your charges from SBI (the State Bureau of Identification).

Where can I get a Petition for Expungement?

A Petition for Expungement of an Adult Record is available at Family Court or on the Family Court website <http://courts.delaware.gov/Courts/Family>.

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

BACKGROUND CHECK INFORMATION FOR ADULT EXPUNGEMENTS

Any individual seeking the expungement of an adult record must obtain and attach a copy of their Certified State Criminal History to their pleading. To obtain a copy of the Certified State Criminal History, you must report to one of the SBI locations listed below:

New Castle County

Delaware State Police – Troop 2
100 Lagrange Ave.
Newark, DE 19702
1-800-464-4357 OR (302) 739-2528
(APPOINTMENT REQUIRED)

Kent County

Blue Hen Mall and Corporate Center – Suite 1B
655 Bay Rd.
Dover, DE 19901
(302) 739-5871
(NO APPOINTMENT NECESSARY)

Sussex County

Thurman-Adams State Service Ctr.
Room 202
546 S. Bedford St.
Georgetown, DE 19947
(302) 856-5340
(APPOINTMENT REQUIRED)

You will incur a cost at SBI to obtain your Certified State Criminal History. New Castle and Kent Counties will accept cash, money order, or credit (debit, MasterCard & Visa) as payment. Sussex County will only accept money order or credit.

**Cash will NOT be accepted at the Sussex County location.
Personal checks will not be accepted at any location.**

The Family Court of the State of Delaware

In and For New Castle Kent Sussex County

PETITION FOR EXPUNGEMENT OF ADULT RECORD

Petitioner	DEPUTY ATTORNEY GENERAL	Crim. Case No.
Street Address (including Apt)	<input type="checkbox"/> New Castle County 820 N. French Street Wilmington, DE 19801	CPI No.
P.O. Box Number	<input type="checkbox"/> Kent County 102 W. Water Street Dover, DE 19904	
City/State/Zip Code	<input type="checkbox"/> Sussex County 114 East Market Street Georgetown, DE 19947	
Attorney Name		
Interpreter needed? <input type="checkbox"/> Yes <input type="checkbox"/> No Language		

Pursuant to 10 *Del. C.* § 1025, _____ (Petitioner), hereby petitions for the expungement of his/her criminal record. The following are the charges brought against the Petitioner in Family Court (list any additional charges on Form 540):

Charge	Offense Date	Incident No.	Disposition Date	Disposition

The following information MUST be completed in its entirety for the Court to consider the petition

- The Petitioner has no prior criminal record.
- The continued existence and possible dissemination of information relating to the arrest of the Petitioner causes, or may cause, circumstances which constitute a manifest injustice to the Petitioner.

You **must explain** how the Petitioner is negatively affected by the continued existence of this record:

Pursuant to 10 *Del. C.* § 1025, the Petitioner requests that this Court enter an order directing:

- That all indicia of arrest contained in the police records and the Court records relating to the above mentioned charges be expunged and removed from the files and placed in the control of the supervisor of the State Bureau of Identification as provided for in 10 *Del. C.* § 1025 (e)(5).
- That certified copies of this Court's Order be sent to the Petitioner, the Delaware Department of Justice, the United States Department of Justice, the State Bureau of Identification, the Delaware State Police and the Arresting Agency.
- That the Department of Justice and the Family Court of the State of Delaware take appropriate steps to see that all records not destroyed pursuant to this order be handled in such a manner as to insure that they not be opened to public inspection or disclosure.
- That it shall not be necessary for the Petitioner to disclose his/her arrest on the above mentioned charges for any reason.

_____ Petitioner's Signature

Sworn to and subscribed before me this _____ day of _____, _____

_____ Clerk of Court/Notary Public _____ Date

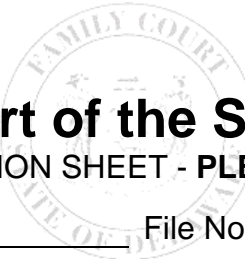
AFFIDAVIT OF MAILING

I, the Movant, affirm that a true and correct copy of this Motion was placed in the U.S. Mail on the _____ day of _____ and sent to the other party or attorney at the address listed on the petition, first class postage pre-paid.

Movant

Sworn to subscribed before me this _____ day of _____, _____

Clerk of Court/ Notary Public



The Family Court of the State of Delaware

INFORMATION SHEET - PLEASE PRINT

Date: _____ File No.: _____

**Please fill in A to K pertaining to you the Applicant/Petitioner. (For additional petitioners use additional sheets)
PLEASE PRINT CLEARLY**

A. Name: _____

B. Address: _____
City/State/Zip: _____

C. Phone – Home: _____ Work: _____ Cell: _____

D. Employer & Address: _____

Hours/Shift _____

E. Social Security No.: _____ F. Date of Birth: _____

G. Place of Birth (City & State): _____

H. Sex: _____ Race: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____
Marks/Scars/Tattoos: _____

I. Type of motor vehicle operated by you: _____

J. Driver's License No.: _____ State of Issue: _____ Expiration Date: _____

K. Your relationship to the Defendant/Respondent: _____

L. Attorney: _____

I authorize Family Court to deliver court orders in my case(s) to my email address instead of to my mailing address. My email address is: _____.

*Please note that if you provide an email address, all orders in your pending civil cases in Family Court will be sent in an encrypted email via Egress to the email address provided and will not be mailed to your physical address. For information on how to receive encrypted emails through Egress, please visit <https://judicial.state.de.us/courtdox/Download.aspx?id=94888&court=readonly>.

Please fill out the information below in reference to the child(ren) who are involved.

Children

Name	Relationship	Sex	Race	D.O.B.	SSN	Birthplace <small>City & State</small>

Please fill in L to Y pertaining to the Defendant/Respondent. (For additional respondents use additional sheets)

M. Defendant/Respondent is a: (Check One) ADULT JUVENILE

N. Name: _____

O. Address: _____

City/State/Zip: _____

P. Phone – Home: _____ Work: _____ Cell: _____

Q. Employer & Address: _____

Hours/Shift _____

R. Social Security No.: _____ S. Date of Birth: _____

T. Place of Birth (City & State): _____

U. Relationship to Child: Not Applicable Mother Father Relative Non-Relative

Other (Please Describe) _____

V. Sex: _____ Race: _____ Height: _____ Weight: _____ Hair: _____ Eyes: _____

Marks/Scars/Tattoos: _____

W. Driver's License State & No.: _____ X. Type of vehicle operated by Defendant/Respondent: _____

Y. Parent's Name (if a juvenile): _____

Z. Time when Respondent is usually home: _____

AA. Additional information about Respondent that may aid the process server in locating him/her to serve petition:

DIRECTIONS TO RESPONDENT'S RESIDENCE